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International Court of Justice

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9 July 1946
Affidavits.

OFFICIAL TRANSCRIPT OF EXAMINATION OF AFFIDAVITS ON BEHALF OF ACCUSED ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO ORDER OF THE TRIBUNAL, DATED 5 JULY 1946.

9 July 1946

COMMISSIONER:

Mr. George Taylor.

(THE COMMISSION CONVENED AT 1000 HOURS.)

COMMISSIONER TAYLOR: We will proceed.

THE GESTAPO.

DR. MERKEL: As the first matter, I would like to take up the French indictment against the Gestapo, by that I mean the completion and verification of the statements of the Witness, Dr. Knochen.

I have here a sworn testimony by Dr. Laube, who was with the military administration with the chief of the SD and Security Police in France in the position of a war administration councilman or Kregsverwaltungsvat. This Document concerns itself mostly with the treatment of Jews in France. I do not want to present the entire document, but merely some excerpts.

"From my activities with the military administration in France and with the commander of the Security Police and the SD in Paris, I know that the Jewish questions in France were taken care of by a special group, which since 1940 were under the direction of Dannecker. This commando was negotiated with the German and French offices always directly. It was formerly part of the commander in chief of the Security Police, but its activities had no actual connections with the work of the various offices of the commander of the Security Police. It is also very evident

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that neither Dannecker nor one of his representatives of this group took part in the regular official discussions of the Commander of the Security Police."

Now we can skip a few lines and here I quote again.

LT. COMMANDER HARRIS: I understood that the procedure to be adopted here was that the Defense Counsel would not read into the record sections of the affidavit, which were particularly favorable to the defense, but that he would make a summary of the contents of each affidavit or a group of affidavits for the purpose of affording a description of the documents which then would be submitted to the Tribunal as evidence.

DR. MERKEL: I agree, of course. I was not quite clear about it. Since the entire Document is not to be translated into English, I thought maybe certain specific passages would be translated and then handed over to the Tribunal, however, we can do it this way.

COMMISSIONER TAYLOR: Would you consider as a summary the parts that are penciled?

MR. MONNERAY: I do not think this is a summary, it is only excerpts of the Document.

DR. MERKEL: These summaries we have here are rather short. Since I was only informed yesterday of the manner in which this Commission is working, in addition to these excerpts, I will have to make a few additional statements.

LT. COMMANDER HARRIS: I also understand in certain instances that the defense counsel can request, in the event of a particularly important

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or good affidavit a full transcript can be ordered and perhaps this is one of those affidavits.

DR. MERKEL: Is there any possibility to have just parts of a sworn affidavit translated?

COMMISSIONER TAYLOR: Under this procedure, I take it that the defense would be entitled to have a part of the affidavit translated, would it not?

DR. MERKEL: I am not quite clear. I have some Documents, which I will ask to have translated in their entirety and other Documents which have some less relative points and in that case I would just like to have excerpts of the Documents.

COMMISSIONER TAYLOR: Is there any objection of stating here whether it is relevant? My understanding of yesterday is that everything went into the transcript, is that correct?

DR. MERKEL: I am not sure, I was not here all of the time.

MR. MONNERAY: It is up to the prosecution to check the parts, which have not been read by the defense counsel. Perhaps it is right to read only parts and then the prosecution can check the other parts of the same document, but that is only possible if the prosecution can read the German. The other thing is if the Document is too long and it would be very difficult for us to check up on the entire Document.

DR. MERKEL: What do you say is a long Document. Would you say this is a long Document by Dr. Laube?

MR. MONNERAX: Perhaps it would be possible for the Defense

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Counsel to give us certain parts of the Document or read certain parts as supplimental information.

DR. MERKEL: This is Gestapo Document No. 1 - Dr. Laube - June 8, 1946. I want to prove through this Document the following points. The Jewish question, especially the execution and deportation of Jews from France were carried out by the special group under the direction of Dannecker. The group or commando received no directions, orders or directives from the commander of the Security Police and they could not give any directives to the Commander of the Security Police.

(2) The Jewish camps were installed by the French Government. The Sipo members did not participate in the Jewish transports in France. The following kinds of camps were available in France: Civilian Internment Camps for civilian prisoners; Police Interment Camps and Army Interment Camps. I want to add that all three camps were under the administration of the Commander of the Army. That is a short summary of this one affidavit.

MR. MONNERAY: I object to this affidavit for several reasons: (1) This affidavit is entirely cumulative, as a matter of fact the question regarding the Sipo in France has been very lengthly discussed during the direct examination and the cross examination of Dr. Knochen. It is quite the same as to the transportation and deportation of Jews in France on which the defense counsel of the Sipo and SD have examined and the prosecution has cross-examined for a long time Dr. Knochen on this point. As to the camps of Jews within France and as to the prisons in France, those questions also have been discussed and cross-examined during the testimony of Knochen. Now Dr. Laube is less qualified to discuss this matter than Knochen himself, that is only a supplimentary argument I propose. Laube as an official with

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the BDS was in charge of only one section while Knochen was chief of the entire organization and knew this work much better than Laube. We also had Dr. Best who was in charge of the corresponding section of the military administration, so it seems to me that this affidavit is completely cumulative and the phrases of this affidavit are absolutely contradictory to documents, arguments and testimony given before.

COMMISSIONER TAYLOR: How many affidavits do you have altogether?

DR. MERKEL: I have prepared here about 25 or 26. Altogether I want to present about 60 or 70 - that is as single affidavits.

MR. MONNERAY: May I add one argument more? Those affidavits have to replace testimony. Now since if Laube himself could have come here to testify, we would have objected to his testimony since the questions which would be submitted to him would be cumulative questions, I think the same must be applied to the affidavits which are submitted to the Commission

DR. MERKEL: It is certain that I would not have asked Dr. Laube to come here to testify since he would have come here under the rule of cumulative evidence. In the many discussions which we had with Colonel Neave and other commissioners the following matter was explained. It was stated that due to the very difficult position of the indictments against the organizations, the matter of cumulative evidence will have to be regarded quite differently from the way it was regarded concerning the individual defendant. We were also assured at the conference that evidence could be presented, which had the purpose of aiding and supplimenting and certifying the statements of the witness. That especially has to be the case if the prosecution has made some statements concerning its doubts as to the reliability of the witness. I consider the cumulative matter as follows: I only can

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bring cumulative evidence as according to the court and the prosecution the evidence already has been given, otherwise the following would happen. For instance, I questioned Dr. Knochen concerning the occurances in France. Due to some questions of the prosecution the reliability of the witness was questioned severely. Now if that is the case, the court will not believe this witness and I cannot bring in another witness due to the so-called cumulative order.

COMMISSIONER TAYLOR: Is it the prosecution's understanding that these affidavits should be cumulative and they cannot be new evidence? They are merely to support the hearings we had before the commission. This would give about ten or fifteen affidavits which would be cumulative, but they should be relative to the defense. I may be wrong about that.

DR. MERKEL: Yes, that is why I took a viewpoint, especially from the statements of Dr. Knochen with the questioning which took three days. The purpose of these affidavits is to prove that the statements of Dr. Knochen were cocrect and they should have the purpose that the witness will be regarded as reliable, therefore, his other statements are reliable. From the various discussions, I consider it a matter of fact that the statements, the affidavits that are being given before the commission are to support the stories of some witnesses and of course they have to say the same thing as the witness or otherwise they would not be supporting.

COMMISSIONER TAYLOR: I want to get myself clear on this matter so that we can expedite the procedure. We will take a recess for five minutes.

(THE COMMISSION RECESSED AT 1045 HOURS.)

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COMMISSIONER TAYLOR: My understanding as to the rules and procedure is that you follow the order of affidavits of July 5, 1946 as to submitting the summary of the affidavits or groups of affidavits, which contain relevant matters of defense and we know it will be cumulative as it is merely supporting the testimony which has heretofore been given to the Commission. With that understanding, we will proceed with the summary and if it is relevant, of course, the summary is subject to objection by the prosecution.

DR. MERKEL: I present therefore this Document of the Gestapo No. 1 and it shall of course be decided whether or not it shall be accepted.

COMMISSIONER TAYLOR: You offer the summary to this affidavit. Are there any objections to the summary?

MR. MONNERAY: I think it would be advisable to have the summaries translated.

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DR. MERKEL: Gestapo No. 2 Document by Wilhelm Ruelf, who from October, 1940 until the retreat from France was commander of the SD and Security Police in Dijon. This man testifies concerning the personnel in these commissions and he also testifies concerning the tortures and mistreatments that are claimed in the French Documents 567 and 567-B, which were supposed to have taken place in Dijon. He also testifies concerning the treatment of the Jewish question by the commando in Dijon, the way the commando order was carried out, the treatment or imprisonment of female French citizens with the French command in Dijon. In other words, it concerns itself wholly with the area of Dijon. I consider this

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point important due to the fact that Dr. Knochen did not have such detailed information. He only had a general view, he did not have the experience or knowledge that the individual commander of the office would have. I request that this Document be translated in its entirety.

COMMISSIONER TAYLOR: What is the wish of the prosecution?

MR. MONNERAY: No objections.

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DR. MERKEL: Gestapo Document No. 3 is a sworn affidavit by Dr. Degner. This document concerns itself with the organization of the commandoes in Portiers and the deportation of workers, the use that is made of the commando order of which was given two examples, concerns itself with mistreatment of prisoners by the office of the Sipo in Portiers. It also takes its position to Document F-558, RF 304, which concerns the army internment camps at Portiers. I request that this document be translated in its entirety.

COMMISSIONER TAYLOR: Does the prosecution have any objections to that?

MR. MONNERAY: The affidavit is certainly dealing with relevant points.

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DR. MERKEL: The next is Gestapo Document No. 4, a sworn statement by Fritz Wellbrandt, which concerns itself with the activities and goals of the Sipo and SD from the period between 1940 and 1944. I ask that this Document be admitted, as it is rather short and concerns itself with certain important points of the prosecution.

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MR. MONNERAY: In the Document testimony is given which has been covered by the witness. It is not possible in the process of the actual procedure for the prosecution to make any objections to the Documents. It is impossible for the prosecution to change the terms of the affidavits.

COMMISSIONER TAYLOR: I have not as yet ~~gotten~~ a clear picture of the contents of the affidavit. The impression in my mind is not clear as to what this affidavit contains.

DR. MERKEL: You mean the last one, or all of them?

COMMISSIONER TAYLOR: The last one.

DR. MERKEL: This affidavit contains some of the accusations made against the organization and the activities of the units in Dijen, Chalon-sur-Marne, Reims and Orleans. For instance, he stated that there were no Sipo or SD prisons. He states that he did not receive any orders for mistreatments and tortures and if such things did happen, they were excessive measures by individuals. There were no orders that requested or ordered such excessive orders as the prosecution maintains. It also states that these four offices were not connected in any executive way during the deportation of the Jews, but that this was done by the French police. In this case in order to clarify the matter, he gives one specific example which happened in the summer of 1942 in the vicinity of Chalon sur Marne. He also states that the Sipo and SD had nothing to do with the deportation and transportations to Germany, but that was a duty of the labor recruitment office of Saukel. It also states that paratroopers were not executed by the SD, but were handed over to the responsible military headquarters.

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That, in short sentences, is the main points of Document 4. Everything concerns itself entirely with the offices of the SD in Dijon, Chalen-sur-Marne, Reims and Orleans. May I state that the French prosecution did the same thing and presented a large number of Documents from people who were mistreated by the Gestapo and SD in various parts of France and the only way I can attempt to disapprove these points is by presenting affidavits from people that were in France and should have full knowledge concerning these matters. I do not think that the four documents are too much. I believe that the prosecution has presented about sixty documents and I am only offering four in order to clear the German position concerning the French accusations.xx

COMMISSIONER TAYLOR: Any objections?

MR. MONNERAY: No.

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DR. MERKEL: I have here another Document of Dr Laube of July 2nd, which I only received on Saturday and it was impossible to have copies made. I would like to ask the Commission if I may discuss this Document later on when I present my last group of affidavits?

COMMISSIONER TAYLOR: The idea of the prosecution being here is to determine if the affidavits are relevant and that is the purpose of these hearings.

DR. MERKEL: May I present this Document when I have the copies made later on?

COMMISSIONER TAYLOR: Yes.

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DR. MERKEL: The next point I am coming to is the participation of the Gestapo in the demonstration of November 9th and 10th, 1938. I am presenting Gestapo Document No. 5, a sworn statement by Dr. Heinz Kaufmann concerning the participation of the Gestapo in Dresden on November 9th and 10th. I ask that this Document be presented in its entirety. It is a very short document.

LT. COMMANDER HARRIS: Do you mean translated in its entirety?

DR. MERKEL: Yes, it is only one page.

COMMISSIONER TAYLOR: I think the commission as a whole should pass on the translations.

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DR. MERKEL: I just wanted it known that I would like the entire document translated.

LT. COMMANDER HARRIS: I haven't heard anything yet as to what it's about.

DR. MERKEL: It concerns the activities of the Gestapo and demonstrations of the 9th and 10th of November and the participation of the Gestapo Office Dresden in these demonstrations.

LT. COMMANDER HARRIS: I don't remember any evidence about the Gestapo Office Dresden participating in the November 9th and 10th Anti-Jewish Pogroms. We certainly cannot controvert general orders by what was done in some small regional office. Therefore I think that the affidavit is irrelevant.

DR. MERKEL: The Prosecution claims that the Gestapo participated or aided in the demonstrations of the 9th and 10th of November. If the Prosecution says the Gestapo it means every Gestapo Office of the Reichs Area at that time. I can only disprove the statements that the Gestapo did participate in these demonstrations of the 9th and 10th of November by giving statements as to what actually happened in three or four Gestapo Offices on that day and in that way give a general indication as to what happened in about 20 Gestapo Offices in the Reich because I certainly do not intend to bring in documents concerning all 20 Gestapo Offices in the Reich.

COMMISSIONER TAYLOR: This will be submitted to the Commission for approval.

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BY DR. MERKEL:

The next document is Gestapo No. 6, affidavit by Dr. Theodor Grafenberger concerning the participation of the Gestapo Office Nurnberg-Furth. It concerns

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itself mostly with the attitude of the Chief of the Gestapo at that time, Dr. Martin, and the actions taken by the Kreisleitung against Gestapo Officials.

LT. COMMANDER HARRIS: I object on the grounds that this is irrelevant.

DR. MERKEL: For what reason?

LT. COMMANDER HARRIS: For the reason that we are here concerned with the criminality of the Gestapo and not with the attitude of some individual member of the Gestapo ~~of~~ or with what some ~~Kreis~~ Kreisleiter said about the Gestapo.

COMMISSIONER TAYLOR: Interpreter will you read this so I can see what it is?

LT. COMMANDER HARRIS: I withdraw my objection. If the Commissioner pleases, I have no objection to these affidavits, whether relevant or irrelevant, whether they are cumulative or non-cumulative; if the paper work can be handled ~~by~~ the defense can put in all the affidavits they are able to find, just so long as it is understood that the affidavits themselves constitute the evidence and that what is here said by the defense attorney as to the contents of the documents is not evidence. I am just trying to be helpful in shortening the record but actually we are not accomplishing anything here. We are taking too long to cover these and so I do not propose to make further objections it being understood that the basic position which I have stated is the correct one.

MR. MONNERAY: As to Gestapo No. 6, where is Dr. Grafenberger now?

DR. MERKEL: I do not know for sure; I believe he was here; I think he is now in Langwasser.

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BY DR. MERKEL:

Document Gestapo No. 7, affidavit by Hans Deerhage, concerns itself with the participation of the Gestapo Office Bielefeld and its liaison office Detmold-Lippe on the demonstrations.

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Next I will present Document Gestapo No. 8. It is a sworn affidavit by Wilhelm Huelf which tells of the preview or the story that occurred before the demon strations of the 9th and 10th of November 1938 and concerns the transportation of 17,000 Polish Jews to Poland, the participation of the office for Jewish and religious questions in the Gestapo Office in Berlin on these demonstrations. It concerns itself with the actual persons who were responsible for starting this action and also gives the reason for the arrest of 20,000 Jews according to that now well known teletype letter of Heydrich. It also concerns itself with the carrying out of this arrest measure.

Due to its importance I wish to request that this document be translated in its entirety. I want to prove that the Gestapo was not the office that started out in this action and I also want to prove that the 20,000 Jews who were arrested due to an order of Heydrich were released again within the next few weeks and months and that what the prosecution has stated a few days ago, that the people who came to concentration camps were being liquidated, is not correct.

MR. MONNERAY: Do you request translation of the whole document?

DR. MERKEL: I think it is necessary that it be translated in its entirety as it concerns itself over an entirely new complex which so far has not been discussed before this Commission.

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MR. MONNERAY: The Prosecution also thinks it would be worth while to have the entire document translated.

COMMISSIONER TARYLOR: Very well, it will be recommended

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BY DR. MERKEL:

The only other document is the affidavit of Karl Berger who makes statements concerning the arrest and sending to concentration camp of the entire members of the SD Office in Magdeburg because they had participated in excessive measures of the 9th and 10th of November. The arrest was ordered by Chief of the Gestapo in Magdeburg. It is a very short sworn affidavit and I wish to ask permission to present this document later on, as soon as I can have copies made of it.

COMMISSIONER TAYLOR: Very well.

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BY DR. MERKEL:

Next I come to the Indictment against the Gestapo in Holland concerning the shooting of hostages and the treatment of prisoners. This is Document Gestapo No. 9, sworn affidavit of Hans Helmut Wolff and concerns itself that in the year 1942 as an answer to the recurring sabotage acts, that hostages were to be shot. He also gives the negative attitude of the Security Police to this question. He also speaks of the treatment of prisoners, especially the prisoners that were accused of being sabotage and espionage agents. In this case I am not interested in the entire document but only in the parts that were marked by me.

MR. MONNERAY: Do you ask for translation of Page 2, first paragraph, concerning the SD?

DR. MERKEL: Yes.

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MR. MONNERAY: I would request also especially that the 1st paragraph of page 2 should be translated.

COMMISSIONER TAYLOR: Dr. Merkel, you just want translated those parts of the affidavit you have checked?

DR. MERKEL: Yes.

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MR. MONNERAY: May I come back once more to Document Gestapo No. 8. If the Commission decides not to translate the whole document I would request a literal translation of at least one passage. It is on page 4.

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BY DR. MERKEL:

Next is Document Gestapo No. 10, affidavit by Hans Deerhage, which concerns itself with the recruitment of foreign workers. It is a very short affidavit and states about as follows: That between 1940 and June 1942, representatives of Gauleiter Sauckel did recruit workers in Greece for work in Germany. The Security Police was not participating in this recruitment or in the transportation of these workers.

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Next, the problem of the Labor Education Camps, Document Gestapo No. 11, Affidavit of Felix Ruehl. Felix Ruehl states here in his ~~sworn~~ sworn affidavit that between September 1944 and March 1945 the Gestapo Office Augsburg repeatedly received complaints by chiefs of factories since persons that had broken their contracts rather returned to the Labor Education Camp than to their work in the industries or in the factories.

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The next theme is concerning the murdering of prisoners in Sipo and SD prisons in order to prevent their being freed by Allied troops. Document Gestapo No. 12 is a sworn affidavit by Felix Ruehl and concerns itself with the following: When the American Forces entered Augsburg a number of bodies were supposed to have been found in the arrest rooms of the Gestapo Office of Augsburg which were supposed to have been murdered by Gestapo members shortly before the entrance of the American troops. That was a claim made in May-beginning of June by a newspaper that had been published in Augsburg. That is also the general statement of the Prosecution concerning the Gestapo. The witness makes statements concerning this claim.

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I just received copies of the formerly mentioned two affidavits of which I did not have the copies. I would like to have permission to discuss them now.

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The first one, Gestapo No. 13, is the sworn affidavit by Dr. Laube the 2nd of July 1946 and concerns itself with the work of the police matters in France between 1940 and 1942. It concerns the transfer of the Secret Field Police in May 1942 to the Security Police and what kind of a transfer it was. It concerns itself with the relation between the German and French Police, and the duties of both of these police groups. It concerns itself with the recruitment of French labor and the shooting of hostages in France as well as the participation of the Sipo in these matters. The reason for this is the matter which I had already described in connection with the first sworn affidavit of Dr. Laube, which is Gestapo No. 1.

MR. MONNERAY: Do you request translation of the entire affidavit?

DR. MERKEL: No, I don't think that is necessary. It would be satisfactory if certain parts or excerpts could be translated, which the

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Commission has now in its possession.

MR. MONNERY: I have only one general observation to make. I cannot consider those affidavits as evidence since there is no opportunity for the Prosecution to protest or disprove.

DR. MERKEL: I do not think that this has anything to do with the value of the evidence or whether or not it has any value since the witnesses are open also to the examination of the Prosecution even more than they are to the examination of the Defense. Furthermore, the Prosecution has within its reach documents and other matters and if they want to disprove something they can do it.

COMMISSIONER TAYLOR: The Affiant, Dr. Laube, was not in court as a witness, was he?

DR. MERKEL: No.

MR. MONNERAY: There is just the one point I would like to put into the record. Until now all affidavits submitted by the Prosecution during its own case could be challenged by the Defense either by asking for the author of the affidavit as a witness or by sending interrogatories to the author of the affidavit. We have no possibility now according to the rules set up for the organizations to challenge the authors of those affidavits by cross-examination or written questionnaires.

DR. MERKEL: As far as that is concerned I do not think that this should in any way hamper the value of the evidence of this matter since we of the Defense did not have anything to do with setting up the rules and cannot make any decisions about it. I do not believe that though this fact that the evidence is of less value for the defense.

COMMISSIONER TAYLOR: Gestapo Affidavit No. 13 will be received and submitted to the Commission.

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BY DR. MERKEL:

As Gestapo No. 14 I would like to present the already mentioned affidavit of Karl Berger. It concerns itself with the arrest and punishment as well as sending to concentration camp of all members of the SD Office in Magdeburg because of participation in the demonstrations of the 9th and 10th of November 1938. This arrest was following a request of the Chief of the Gestapo Office.

LT. COMMANDER HARRIS: We have no objection to having this document translated, it being such a short one.

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BY DR. MERKEL:

The next phase I am coming to is the Organization, the personnel composition and the question of voluntary membership, and the activity of the administration and executive offices of the Gestapo. As Document Gestapo No. 15 I want to introduce the affidavit of Karl Weiss. It concerns itself with the check of the members of the Bavarian Political Police in 1933 by the SD, the order prohibiting the mistreatment of prisoners at the Gestapo Office in Munich; the matter of false Gestapo officials and the decree of Himmler to prevent that; the sending of two officials to the concentration camp Dachau between the years 1933 and 1939; the pressure of Party offices upon the activity of the Gestapo and the results of refusal to carry out an official order. It would be sufficient if the things that have been outlined in the document would be considered as evidence.

MR. MONNERAY: I would like to request eventually the translation of the following passages also: Paragraph 5 and Paragraph 6b. And I agree perfectly with the translation requested by defense counsel of No. 1.

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COMMISSIONER TAYLOR: Very well.

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BY DR. MERKEL:

The next is Gestapo No. 16 It is a sworn affidavit by Bruno Rachfahl and concerns itself with the composition of the personnel of the Secret State Police, the Gestapo in Berlin, when it was founded and what kind of continuing replacements were brought in, as well as the possibility of the recalling of officials. Here too I am satisfied if only certain marked passages are translated.

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Next is GESTAPO NO. 17, sworn affidavit of Alfred Zenker, which concerns itself with the activities and duties of the administration officials of the Gestapo and the difference of their activities to those of the executive officials. I wish that this document ~~xx~~ be translated in its entirety.

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Next is GESTAPO NO. 18, sworn affidavit of Georg Schraepel. It concerns itself with the general basic principles that were used in hiring and firing of Gestapo officials in the years 1941 to 1945. It concerns itself with the individual personnel groups of the Gestapo from 1941 to 1945, which were offices, administration officials, executive officials, civil employees, required laborers, men commandeered from the Waffen-SS, members of the former Secret Field Police. It also concerns itself with the requirement of secretness within the Gestapo and the knowledge of the Gestapo officials ~~xxxx~~ of crimes that occurred within the organization. I believe that this document is rather important and informative. I have marked a few passages but I think it would be advisable to have the entire document translated. The witness was personnel chief in

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the Criminal Police from 1941 and was in the Reichs Security Main Office and therefore has a thorough indication of matters there.

MR. MONNERAY: I would just like to call the attention of the Commissioner to the fact that this Schraepel was in the Criminal Police until January 1944. He was dealing with the Criminal Police, if I am right, until January 1944 and only dealing with the Gestapo from January 1944 on.

DR. MERKEL: But the Criminal Police was on equal level, almost together with the Security Police and therefore I want to say that the witness is capable of explaining the personnel situation organized within the Gestapo.

MR. MONNERAY: Firstly, the Criminal Police is not indicted and secondly the affidavit itself says that within the RSHA the different branches were so isolated that nobody knew what was going on with the neighbors, so I don't think that the affidavit is relevant.

DR. MERKEL: Yes but from 1944 he was Chief Supervisor of the Personnel Section of the Security Police and he was in the personnel office of the Main Office of the Security Police and the Security Police is both the Criminal Police and the Gestapo.

MR. MONNERAY: But he was a referant for personnel questions for the CRIPO and the affidavit would be relevant only from January 1944 on.

DR. MERKEL: ~~Then~~ I would ~~like~~ be ready to just use this sworn affidavit for the time after January 1944 and then I could get further sworn statements for the period before 1944.

COLONEL NEAVE: Haven't you another witness who could cover the whole of this question?

DR. MERKLE: No, I am sorry but it usually didn't happen that persons stayed for a number of years in the same office.

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COLONEL NEAVE: Well, Dr. Merkel, I suggest the following procedure in regard to this affidavit. The Commissioners will take away and examine it and they will inform you what parts they consider should be struck out. It seems to me that prior to January 1944 it is largely irrelevant and I think it should be examined by the Commission and the decision announced at the next hearing of your case. Does the Prosecution agree?

Lt. COMMANDER HARRIS and MR. MONNERAY: Yes.

COLONEL NEAVE: Before you go on, in regard to the question of translation, the best arrangement I find is for defense counsel to list those he wants translated at the end of the yearing and the Commissioners will then take the documents to the translation section and see how it can be done. That of course applies to requests by the Prosecution as well. I see that some have already been requested by both sides.

MR. MONNERAY: Very often we agree on excerpts to be translated ; then too we ask some time for certain passages to be translated which are of interest to us.

COLONEL NEAVE: The difficulty is the Commission cannot always guarantee that the translation will be carried out and therefore it must rest to a certain extent.

COMMISSIONER TAYLOR: How many more do you have, Dr. Merkel?

DR. MERKEL: Only three more at this moment. Altogether I have about a maximum of sixty.

COLONEL NEAVE: Do those cover points which have already been covered? Do the new ones cover points which have already been covered by the 18 here?

DR. MERKEL: Some, yes, but most of them cover different points.

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COLONEL NEAVE: Well what we did yesterday in the case of the SA Affidavits was to simply list those which were to bring up no new points to cover matters that had already been dealt with and not to read summaries of them at all but simply to make a statement in the record that representative witnesses confirmed what had already been said. The originals, of course, to be filed with the General Secretary. But the ~~xxxxx~~ decision as to whether that should be done in your case would depend entirely on how far it appears to the Commission that your additional affidavits are cumulative or not.

DR. MERKEL: We have already discussed this point this morning in that it concerned itself with the affidavits which I introduced to strengthen the statement of the witness Dr. Knochen.

COLONEL NEAVE: I don't want to discuss it now. I merely say we may have to adopt that procedure. We cannot decide on that question until the court has heard something of the affidavits that are coming.

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BY DR. MERKEL:

Next is Document GESTAPO No. 19, sworn affidavit by Bernhard Rahe, which concerns itself with the separation between the administrative and the executive offices of the Gestapo, the separation in the administration between the personnel and the economic offices. It also concerns itself with the matters of secretness and of the voluntary entry into the Gestapo.

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Next is Document GESTAPO No. 20, sworn affidavit by Arnold Krecklow, which also concerns the position of the administration officials in the Security Police, the title designation for executive and administrative officials, the duties of the police administration officials, the possibility of

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participation of administration officials in the crimes of which the Gestapo is accused.

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The next Document GESTAPO No. 21, affidavit of Walter Zirpins, concerns itself with the participants in the education and training of the leadership schools of the Security Police and that these men were mostly ordered to the Gestapo against the will of the Criminal Police.

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That is all I have to present for today.

COMMISSIONER TAYLOR: Very well.

(A recess was taken until 1400 hours.)

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The foregoing is a true and correct transcript of the examination of affidavits submitted by Dr. Merkel on 9 July 1946.

Alice Meehan
Reporter (pp 1 - 11)

Mabel A. Lesser
Reporter (pp 17 - 24)

CERTIFIED TO:

Geo R Taylor
Commissioner

Commissioner

H1045-0026

OFFICIAL TRANSCRIPT OF EXAMINATION OF AFFIDAVITS ON BEHALF OF ACCUSED ORGANIZATIONS, TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL PURSUANT TO ORDER OF THE TRIBUNAL, DATED 5 JULY 1946.

9 July 1946

COMMISSIONER:

Mr. George R. Taylor

(The Commission convened at 1000 hours)

COMMISSIONER TAYLOR: We will proceed.

THE GESTAPO

DR. MERKEL: As the first matter, I would like to takeup the French indictment against the Gestapo, by that I mean the completion and verification of the statements of the Witness, Dr. Knochen.

I have here a sworn testimony by Dr. Laube, who was with the military administration with the chief of the SD and Security Police and the SD in Paris, I know that the Jewish questions in France were taken care of by a special group, which since 1940 were under the direction of Dannecker. This commando was negotiated with the German and French offices always directly. It was formerly a part of the commander in chief of the Security Police, but its activities had no actual connections with the work of the various offices of the commander of the Security Police. It is also very evident that neither Dannecker nor one of his representatives of this group took part in the regular official discussions of the Commander of the Security Police."

Now we can skip a few lines and here I quote again.

LT. COMDR. HARRIS: I understood that the procedure to be adopted here wasthat the DefenseCounsel would not read into the record sections of the affidavit, which were particularly favorable to the defense, but that he would make a summary of the contentsof each affidavit or a group of affidavits for the purpose of affording a description of the documents which then would be submitted to the Tribunal as evidence.

DR. MERKEL: I agree, of course. I was not quite clear about it. Since the entire Document is not to be translated into English, I thought maybe certain specific passages would be translated and then handed over to the Tribunal, however, we can do it this way.

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COMMISSIONER TAYLOR: Would you consider as a summary the parts that are penciled?

MR. MONNERAY: I do not think this is a summary, it is only excerpts of the Ducument.

DR. MERKEL: These summaries we have here are rather short. Sinc I was only informed yesterday of the manner in which this Commission is working, in addition to these excerpts, I will have to make a few additional statements.

LT. COMDR. HARRIS: I also understand in certain instances that the defense counsel can request, in the event of a particularly important or good affidavit a fulltranscript can be ordered and perhaps this is one of those affidavits.

DR. MERKEL: Is there any possibility to have just parts of a sworn affidavit translated?

COMMISSIONER TAYLOR: Under this procedure, I take it that the defense would be entitled to have a part of the affidavit translated, would it not?

DR. MERKEL: I am not quite clear. I have some Documents, whic I will ask to have translated in their entirety and other Documents which have some less relative points and in that case I would just like to have excerpts of the Document.

COMMISSIONER TAYLOR: Is there any objection to stating here whether it is relevant? My understanding of yesterday is that everything went into the transcript, is that correct?

DR. MERKEL: I am not sure. I wasnot here all of the time.

MR. MONNERAY: It is up to the prosecution to check the parts, which have not been read by the defense counsel. Perhaps it is right to read only parts and then the prosecution can check the other parts of the same document, but that is only possible if the prosecution can read the German. The other thing is if the Document is too long and it would be very difficult for us to check up on the entire Document.

DR. MERKEL: What do you say is a long document? Would you say this is a long Document by Dr. Laube?

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MR. MONNERY: Perhaps it would be possible for the Defense Counsel to give us certain parts of the Document or read certain parts as supplemental information.

DR. MERKEL: This is Gestapo Document No. 1 - Dr. Laube - June 8, 1946. I want to prove through this Document the following points. The Jewish question, especially the execution and deportation of Jews from France were carried out by the special group under the direction of Dannecker. The group or commando received no directions, orders or directives, from the commander of the Security Police and they could not give any directives to the Commander of the Security Police.

(2) The Jewish camps were installed by the French Government. The Sipo members did not participate in the Jewish transports in France. The following kinds of camps were available in France: Civilian Internment Camps for civilian prisnners; Police Internment Camps and Army Internment Camps. I want to add that all three camps were under the administration of the Commander of the Army. That is a short summary of this one affidav

MR. MONNERY: I object to this affidavit for several reasons:

(1) This affidavit is entirely cumulative, as a matter of fact the question regarding the Sipo in France has been very lengthily discussed during the direct examination and the cross examination of Dr. Knochen. It is quite the same as to the transportation and deportation of Jews in France on which the defense counsel of the Sipo and SD have examined and the prosecution has cross examined for a long time Dr. Knochen on this point. As to the camps of Jews within France and as to theprisons in France, those questions also have been discussed and cross-examined during the testimony of Knochen. Now Dr. Laube is less qualified to discuss this matter than Knochen himself, that is only a supplimentary argument, I propose. Laube as an official with the BDS was in charge off only one section while Knochen was chief of the entire organization and knew this work much be tter than Laube. We also had Dr. Best who was in charge of the corresponding secti.. of the military administration, so it seems to me that this affidavit is completely cumulative and the phrasesof this affidavit are absolutely contradictory to documents, arguments and testimony given before.

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COMMISSIONER TAYLOR: How many affidavits do you have altogeth r?

DR. MERKEL: I have prepared here about 25 or 26. Altogether I want to present about 60 or 70 - that is as single affidavits.

MR. MONNERXY: May I add one argument more? Those affidavits have to replace testimony. Now since if Laube himself could have come here to testify, we would have objected to his testimony since the questions which would be submitted to him would be cumulative questions, I think the same must be applied to the affidavits which are submitted to the Commission.

DR. MERKEL: It is certain that I would not have asked Dr. Laube to come here to testify since he would have come here under the rule of cumulative evidence. In the many discussions which we had with Colonel Neave and other commissioners the following matter was explained. It was stated that due to the very difficult position of the indictments against the organizations, the matter of cumulative evidence will have to be regarded quite differently from the way it was regarded concerning the individual defendant. We were also assured at the conference that evidence could be presented, which had the purpose of aiding and supplementing and certifying to the statements of the witness. That especially had to be the case if the prosecution has made some statements concerning its doubts as to the reliability of the witness. I consider the cumulative matter as follows: I only can bring cumulative evidence as according to the court and the prosecution the evidence already has been given, otherwise the following would happen. For instance, I questioned Dr. Knochen concerning the occurances in France. Due to some questions of the prosecution the reliability of the witness was questioned severely. Now if thatis the case, the court will not believe this witness and I cannot bring in another witness, due to the so-called dumulative order.

COMMISSIONER TAYLOR: Is it the prosecution's understanding that these affidavits should be cumulative and they cannot be new evidence? T are merely to support the hearings we had before the commission. This would give about ten or fifteen affidavits which would be cumulative, but they should be relative to the defense. I may be wrong about that.

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DR. MERKEL: Yes, thatis why I took a viewpoint, especially from the statements of Dr. Knochen with the questioning which took three days. The purpose of these affidavits is to prove that the statements of Dr. Knochen were correct and they should have the pnnpose that the witness will be regarded as reliable, therefore, his other statements are reliable. From the various discussions, I consider it a matter of fact that the statements, the affidavits that are being given before the commission are to support the storis of some witnesses and of course they have to say the same thing as the witness or otherwise they would not be supporting.

COMMISSIONERTAYLOR: I want to get myself clear on this matter so that we can expedite the procedure. We will take a recess for five minutes.

(The Commission recessed at 1045 hours)

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COMMISSIONER TAYLOR: My understanding as to the rules and procedure is that you follow the order of affidavits of July 5, 1946 as to submitting the summary of the affidavits or groups of affidavits, which contain relevant matters of defense and we know it will be cumulative as it is merely supporting the testimony which has heretofore been given to the Commission. With that understanding, we will proceed with the summary if it is relevant, of course, the summary is subject to objection by the prosecution.

DR. MERKEL: I present therefore this Document of the Gestapo No. 1 and it shall of course be decided whether or not it shall be accepted.

COMMISSIONER TAYLOR: You offer the summary to this affidavit. Are there any objections to the summary?

MR. MONNERAY: I think it would be advisable to have the summaries translated.

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DR. MERKEL: Gestapo No. 2 Document by Wilhelm Ruolf, who from October 1940 until the retreat from France was commander of the SD and Security Police in Dijon. This man testifies concerning the personnel in these commissions and he also testifies concerning the tortures and mistreatments that are claimed in the French Documents 567 and 567-B, which were supposed to have taken place in Dijon. He also testifies concerning the treatment of the Jewish question by the commando of Dijon, the way the commando order was carried out, the treatment or imprisonment of female French citizens with the French command in Dijon. In other words, it concerns itself wholly with the area of Dijon. I consider this point important due to the fact that Dr. Knochen did not have such detailed information. He only had a general view, he did not have the experience or knowledge that the individual commander of the office would have. I request that this Document be translated in its entirety.

COMMISSIONER TAYLOR: What is the wish of the prosecution?

MR. MONNERAY: No objections.

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DR. MERKEL: Gestapo Document No. 3 is a sworn affidavit by Dr. Degner. This document concerns itself with the organization of the commandos

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in Portiers and the deportation of workers, the use that is made of the commando order of which was given two examples, concerns itself with mistreatment of prisoners by the office of the Sipo in Portiers. It also takes its position to Document F-558, RF 304, which concerns the army internment camp at Portiers. I request that this document be translated in its entirety.

COMMISSIONER TAYLOR: Does the prosecution have any objections to that?

MR. MONNERAY: The affidavit is certainly dealing with relevant points.

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DR. MERKEL: The next is Gestapo Document No. 4, a sworn statement by Fritz Wellbrandt, which concerns itself with the activities and goals of the Sipo and SD from the period between 1940 and 1944. I ask that this Document be admitted, as it is rather short and concerns itself with certain important points of the prosecution.

MR. MONNERAY: In the Document testimony is given which has been covered by the witness. It is not possible in the process of the actual procedure for the prosecution to make any objections to the Documents. It is impossible for the prosecution to change the terms of the affidavits.

COMMISSIONER TAYLOR: I have not as yet a clear picture of the contents of the affidavit. The impression in my mind is not clear as to what this affidavit contains.

DR. MERKEL: You mean the last one, or all of them?

COMMISSIONER TAYLOR: The last one.

DR. MERKEL: This affidavit contains some of the accusations made against the organization and the activities of the units in Dijon, Chalon-sur-Marne, Reims and Orleans. Fir instance, he stated that there were no Sipo or SD prisons. He states that he did not receive any orders for mistreatments and tortures and if such things did happen, they were excessive measures by individuals. There were no orders that requested or ordered such excessive orders as the prosecution maintains. It also states that these four offices were not connected in any executive way during the deportation of the Jews, but that this was done by the French police. In this case in order to clarify th

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matter, he gives one specific example which happened in the summer of 1942 in the vicinity of Chalon-sur-Marne. He also states that the Sipo and SD had nothing to do with the deportation and transportations to Germany, but that was a duty of the labor recruitment office of Sauckel. It also states that paratroopers were not executed by the SD, but were handed over to the responsible military headquarters.

That, in short sentences, are the main points of Document 4. Everything concerns itself entirely with the offices of the SD in Dijon, Charlon-sur-Marne, Reims and Orleans. May I state that the French prosecution did the same thing and presented a large number of Documents from people who were mistreated by the Gestapo and SD in various parts of France and the only way I can attempt to disprove these points is by presenting affidavits from people that were in France and should have full knowledge concerning these matters. I do not think that the four documents are too much. I believe that the prosecution has presented about sixty documents and I am only offering four in order to clear the German position concerning the French accusations.

COMMISSIONER TAYLOR: Any objections?

MR. MONNERAY: No.

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DR. MERKEL: I have here another Document of Dr. Laube of July 2nd, which I only received on Saturday and it was impossible to have copies made. I would like to ask the Commission if I may discuss this Document later on when I present my last group of affidavits?

COMMISSIONER TAYLOR: The idea of the prosecution being here is to determine if the affidavits are relevant and that is the purpose of these hearings.

DR. MERKEL: May I present this Document when I have the copies made later on?

COMMISSIONER TAYLOR: Yes.

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DR. MERKEL: The next point I am coming to is the participation of the Gestapo in the demonstration of November 9th and 10th, 1938. I am

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presenting Gestapo Document No. 5, a sworn statement by Dr. Heinz Kaufmann concerning the participation of the Gestapo in Dresden on November 9th and 10th. I ask that this Document be presented in its entirety. It is a very short document.

LT. COMMANDER HARRIS: Do you mean translated in its entirety?

DR. MERKEL: Yes, it is only one page.

COMMISSIONER TAYLOR: I think the commission as a whole will pass on the translations.

DR. MERKEL: I just wanted it known that I would like the entire document translated.

LT. COMMANDER HARRIS: I haven't heard anything yet as to what it's about.

DR. MERKEL: It concerns the activities of the Gestapo and demonstrations of the 9th and 10th of November and the participation of the Gestapo Office Dresden in these demonstrations.

LT. COMMANDER HARRIS: I don't remember any evidence about the Gest Office Dresden participating in the November 9th and 10th Anti-Jewish Pogrom. We certainly cannot controvert general orders by what was done in some small regional office. Therefore I think that the affidavit is irrelevant.

DR. MERKEL: The Prosecution claims that the Gestapo participated or aided in the demonstrations of the 9th and 10th of November. If the Pro ecution says the Gestapo it means every Gestapo Office of the Reichs Area at that time. I can only disprove the statements that the Gestapo did participate in these demonstrations of the 9th and 10th of November by giving statements as to what actually happened in three or four Gestapo Offices on that day and in that way give a general indication as to what happened in about 20 Gestapo Offices in the Reich because I certainly do not intend to bring in documents concerning all 20 Gestapo Offices in the Reich.

COMMISSIONER TAYLOR: This will be submitted to the Commission for approval.

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DR. MERKEL: The next document is Gestapo No. 6, affidavit by Dr. Theodor Grafenberger concerning the participation of the Gestapo Office Nurnberg-Furth. It concerns

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itself mostly with the attitude of the Chief of the Gestapo at that time, Dr. Martin, and the actions taken by the Kreisleitung against Gestapo Officials.

lt. commander harris; I object on the grounds that this is irrelevant.

DR. MERKEL: For what reason?

LT. COMMANDER HARRIS: For the reason that we are here concerned with the criminality of the Gestapo and not with the attitude of some individual member of the Gestapo or with what some Kreisleiter said about the Gestapo.

COMMISSIONER TAYLOR: Interpreter will you read this so I can see what it is?

LT. COMMANDER HARRIS: I withdraw my objection. If the Commissioner pleases, I have no objection to these affidavits, whether relevant or irrelevant, whether they are cumulative or non-cumulative; if the paper work can be handled the defense can put in all the affidavits they are able to find, just so long as it is understood that the affidavits themselves constitute the evidence and that what is here said by the defense attorney as to the contents of the documents is not evidence. I am just trying to be helpful in shortening the record but actually we are not accomplishing anything here. We are taking too long to cover these and so I do not propose to make further objections it being understood that the basic position which I have stated is the correct one.

MR. MONNERAY: As to Gestapo No. 6, where is Dr. Grafenberg now?

DR. MERKEL: I do not know for sure; I believe he was here; I think he is now in Langwasser.

BY DR. MERKEL:

Document Gestapo No. 7, affidavit by Hans Doerhage, concerns itself with the participation of the Gestapo Office Bielefeld and its liaison office Detmold-Lippe on the demonstrations.

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Next I will present Document Gestapo No. 8. It is a sworn affidavit by Wilhelm Huelf which tells of the preview or the story that occurred before the demonstrations of the 9th and 10th of November 1938 and concerns the transportation of 17,000 Polish Jews to Poland, the participation of the office for Jewish and religious questions in the Gestapo Office in Berlin on these demonstrations. It a ncerns itself with the actual persons who were responsible for starting this action and also gives the reason for the arrest of 20,000 Jews according to that now well known teletype letter of Heydrich. It also concerns itself with the carrying out of this arrest measure.

Due to its importance I wish to request that this document be translated in its entirety. I want to prove that the Gestapo was not the office that started out in this action and I also want to prove that the 20,000 Jews who were arrested due to an order of Heydrich were released again within the next few weeks and months and that what the prosecution has stated a few days ago, that the people who came to concentration camps were being liquidated, is not correct.

MR. MONNERAY: Do you request translation of the whole document?

DR. MERKEL: I think it is necessary that it be translated in its entirety as it concerns itself over an entirely new complex which so far has not been discussed before this Commissio

MR. MONNERY: The Prosecution also thinks it would be worth while to have the entire document translated.

COMMISSIONER TAYLOR: Very well, it will be recommended.

BY DR. MERKEL:

The only other document is the affidavit of Karl Berger who makes statements concerning the arrest and sending to concentration camp of the entire members of the SD Office in Magdeburg because they had participated in excessive measures of the 9th and 10th of November. The arrest was ordered by

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Chief of the Gestapo in Magdeburg. It is a very short sworn affidavit and I wish to ask permission to present this document later on, as soon as I can have copies made of it.

COMMISSIONER TAYLOR: Very well.

BY DR. MERKEL:

Next I come to the Indictment against the Gestapo in Holland concerning the shooting of hostages and the treatment of prisoners. This is Document Gestapo No. 9, sworn affidavit of Hans Helmut Wolff and concerns itself that in the year 1942 as an answer to the recurring sabotage acts, that hostages were to be shot. He also gives the negative attitude of the Security Police to this question. He also speaks of the treatment of prisoners, especially the prisoners that were accused of being sabotage and espionage agents. In this case I am not interested in the entire document but only in the parts that were marked by me.

MR. MONNERAY: Do you ask for translation of Page 2, first paragraph, concerning the SD?

DR. MERKEL: Yes.

MR. MONNERAY: I would request also especially that the 1st paragraph of page 2 should be translated.

COMMISSIONER TAYLOR: Dr. Merkel, you just want translated those parts of the affidavit you have checked?

DR. MERKEL: Yes.

MR. MONNERAY: May I come back once more to Document Gestapo No. 8. If the Commission decides not to translate the whole document I would request a literal translation of at least one passage. It is on page 4.

BY DR. MERKEL:

Next is Document Gestapo No. 10, affidavit by Hans Doerhage, which concerns itself with the recruitment of foreign workers. It is a very short affidavit and states about as follows: That

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between 1940 and June 1942, representatives of Gauleiter Sauckel did recruit workers in Greece for work in Germany. The Security Police was not participating in this recruitment or in the transportation of those workers.

Next, the problem of the Labor Education Camps, Document Gestapo No. 11, Affidavit of Felix Ruehl. Felix Ruehl states here in his sworn affidavit that between September 1944 and March 1945 the Gestapo Office Augsburg repeatedly received complaints by chiefs of factories since persons that had broken their contracts rather returned to the Labor Education Camp than to their work in the industries or in the factories.

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The next theme is concerning the murdering of prisoners in Sipo and SD prisons in order to prevent their being freed by Allied troops. Document Gestapo No. 12 is a sworn affidavit by Felix Auehl and concerns itself with the following: When the American Forces entered Augsburg a number of bodies were supposed to have been found in the arrest rooms of the Gestapo Office of Augsburg which were supposed to have been murdered by Gestapo members shortly before the entrance ot the American troops. That was a claim made in May - beginning of June by a newspaper that had been published in Augsburg. That is also the general statement of the Prosecution concerning the Gestapo. The witness makes statements concerning this claim.

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I just received copies of the formerly mentioned two affidavits of which I did not have the copies. I would like to have permission to discuss them now.

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The first one, Gestapo No. 13, is the sworn affidavit by Dr. Laube the 2nd July 1946 and concerns itself with the work of the police matters in France between 1940 and 1942. It concerns the transfer of the Secret Field Police in May 1942 to the Security Police and what kind of a transfer it was. It concerns itself with the relation between the German and French Police, and the duties of both of these police groups. It concerns itself with the recruitment of French labor and the shooting of hostages in France as well as the participation of the Sipo in these matters. The reason for this is the matter which I had already described in connection with the first sworn affidavit of Dr. Laube which is Gestapo No. 1.

MR. MONNERAY: Do you request translation of the entire affidavit?

DR. MERKEL: No, I don't think that is necessary. I would be satisfact if certain parts of excerpts could be translated, which the Commission has in its possession.

MR. MONNERAY: I have only one general observation to make. I cannot consider those affidavits as evidence since there is no opportunity for the Prosecution to protest or disprove.

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DR. MERKEL: I do not think that this has anything to do with the value of the evidence or whether or not it has any value since the witnesses are open also to the examination of the Prosecution even more than they are to the examination of the Defense. Furthermore, the Prosecution has within its reach documents and other matters and if they want to disprove something they can do it.

COMMISSIONER TAYLOR: The Affiant, Dr. Laube, was not in court as a witness, was he?

DR. MERKEL: No.

MR. MONNERAY: There is just the one point I would like to put into the record. Until now all affidavits submitted by the Prosecution during its own case could be challenged by the Defense either by asking for the author of the affidavit. We have no possibility now according to the rules set up for the organizations to challenge the authors of those affidavits by cross-examination or written questionnaires.

DR. MERKEL: As far as that is concerned I do not think that this should in any way hamper the value of the evidence of this matter since we of the Defense did not have anything to do with setting up the rules and cannot make any decisions about it. I do not believe that though this fact that the evidence is of less value for the defense.

COMMISSIONER TAYLOR: Gestapo Affidavit No. 13 will be received and submitted to the Commission.

BY DR. MERKEL:

As Gestapo No. 14 I would like to present the already mentioned affidavi of Karl Berger. It concerns itself with the arrest and punishment as well as sending to concentration camps of all members of the SD office in Magdeburg because of participation in the demonstrations of the 9th and 10th of Novembe. 1938. This arrest was following a request of the Chief of the Gestapo Office

LT. CMDR: HARRIS: We have no objection to having this document translated, it being such a short one

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DR. MERKEL: I do not think that this has anything to do with the value of the evidence or whether or not it has any value since the witnesses are open also to the examination of the Prosecution even more than they are to the examination of the Defense. Furthermore, the Prosecution has within its reach documents and other matters and if they want to disprove something they can do it.

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LT. CMDR: HARRIS: We have no objection to having this document translated, it being such a short one

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BY DR. MERKEL:

The next phase I am coming to is the Organization, the personnel composition and the question of voluntary membership, and the activity of the administration and executive offices of the Gestapo. As Document Gestapo No. 15 I want to introduce the affidavit of Karl Weiss. It concerns itself with the check of the members of the Bavarian Political Police in 1933 by the SD, the order prohibiting the mistreatment of prisoners at the Gestapo Office in Munich; the matter of false Gestapo officials and the decree of Himmler to prevent that; the sending of the officials to the concentration camp Dachau between the years 1933 and 1939; the pressure of Party officers upon the activity of the Gestapo and the results of refusal to carry out an official order. It would be sufficient if the things that have been outlined in the document would be considered as evidence.

MR. MONNERAY: I would like to request eventually the translation of the following passages also; Paragraph 5 and Paragraph 6b. And I agree perfectly with the translation requested by defense counsel of No. 1.

COMMISSIONER TAYLOR: Very well.

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BY DR. MERKEL:

The next is Gestapo No. 16. It is a sworn affidavit by Bruno Rachfahl and concerns itself with the composition of the personnel of the Secret State Police, the Gestapo in Berlin, when it was founded and what kind of continuing replacements were brought in, as well as the possibility of the recalling of officials. Here too I am satisfied if only certain marked passages are translated.

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Next is GESTAPO NO. 17, sworn affidavit of Georg Schraelep. It concerns itself with the general basic principles that were used in hiring and firing of Gestapo officials in the years 1941 to 1945. I concerns itself with the individual personnel groups of the Gestapo from 1941 to 1945, which were offices, administration officials, executive officials, civil employees, required laborers, men commandeered from the Waffen-SS, members of the former

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Secret Field Police. It also concerns itself with the requirement of secretness within the Gestapo and the knowledge of the Gestapo officials of crimes that occurred within the organization. I believe that this document is rather important and informative. I have marked a few passages but I think it would be advisable to have the entire document translated. The witness was personne chief in the Criminal Police from 1941 and was in the Reichs Security Main Office and therefore has a thorough indication of matters there.

MR. MONNERAY: I would just like to call the attention of the Commissione to the fact that this Schraepel was in the Criminal Police until January 1944. He was dealing with the Criminal Police, if I am right, until January 1944 and only dealing with the Gestapo from January 1944 on.

DR. MERKEL: But the Criminal Police was on equal level, almost together with the Security Police and therefore I want to say that the witness is capable of explaining the personnel situation organized within the Gestapo.

MR. MONNERAY: Firstly, the Criminal Police is not indicated and secondly the affidavit itself says that within the RSHA the different branches were so isolated that nobody knew what was going on with the neighbors, so I don't think that the affidavit is relevant.

DR. MERKEL: Yes but from 1944 he was Chief Supervisor of the Personnel Section of the Security Police and he was in the personnel office of the Main Office of the Security Police and the Security Police is both the Criminal Police and the Gestapo.

MR. MONNERAY: But he was a referant for personnel questions for the CRIPO and teh affidavit would be relevant only from January 1944 on.

DR. MERKEL: I would be ready to just use this sworn affidavit for the time after January 1944 and then I could get further sworn statements for the period before 1944.

COLONEL NEAVE: Haven't you another witness who could cover the whole of this question?

DR. MERKEL: No, I am sorry but it usually didn't happen that persons stayed for a number of years in the same office.

COLONEL NEAVE: Well, Dr. Merkel, I suggest the following procedure in regard to this affidavit. The Commissioners will take away and examine it and

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they will inform you what parts they consider should be struck out. It seems to me that prior to January 1944 it is largely irrelevant and I think it should be examined by the Commission and the decision announced at the next hearing of your case. Does the Prosecution agree?

LT. CMDR: HARRIS and MR. MONNERAY: Yes.

COLONEL NEAVE: Before you go on, in regard to the question of translation, the best arrangement I find is for defense counsel to list those he wants translated at the end of the hearing and the Commissioners will then take the documents to the translation section and see how it can be done. That of course applies to requests by the Prosecution as well. I see that some have already been request by both sides.

MR. MONNERAY: Very often we agree on excerpts to be translated; then too we ask some time for certain passages to be translated which are of interest to us.

COLONEL NEAVE: The difficulty is the Commission cannot always guarantee that the translation will be carried out and therefore it must rest to a certain extent.

COMMISSIONER TAYLOR: How many more do you have, Dr. Merkel?

DR. MERKEL: Only three more at this moment. Altogether I have about a maximum of sixty.

COLONEL NEAVE: Do those cover points which have already been covered? Do thenew ones cover points which have already been covered by the 18 here?

DR. MERKEL: Some, yes, but most of them cover different points.

COLONEL NEAVE: Well what we did yesterday in the case of the SA Affidavits was to simply list those which were to bring up no new points to cover matters that had already been dealt with and not to read summaries of them at all but simply to make a statement in the record that representative witnesses confirmed what had already been said. The originals, of course, to be filed with the General Secretary. But the decision as to whether that should be done in your case would depend entirely on how far it appears to the Commission that your additional affidavits are cumulative or not.

DR. MERKEL: We have already discussed this point this morning in that it concerned itself with the affidavits which I introduced to strengthen the statement of the witness Dr. Knochen.

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COLONEL NEAVE: I don't was to discuss it now. I merely say we may have to adopt that procedure. We cannot decide on that question until the court has heard something of the affidavits that are coming.

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BY DR. MERKEL:

Next is Document GESTAPO No. 19, sworn affidavit by Bernhard Rahe, which concerns itself with the separation between the administrative and the executive offices of the Gestapo, the separation in the administration between the personnel and the economic offices. It also concerns itself with the matters of secretness and of the voluntary entry into the Gestapo.

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Next is Document GESTAPO No. 20, sworn affidavit by Arnold Krecklow, which also concerns the position of the administration officials in the Security Police, the title designation for executive and administrative officials, the duties of the police administration officials, the possibility of participation of administration officials in the crimes of which the Gestapo is accused.

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The next document GESTAPO No. 21, affidavit of Walter Zirpins, concerns itself with the participants in the education and training of the leadership schools of the Security Police and that these men were mostly ordered to the Gestapo against the will of the Criminal Police.

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That is all I have to present for to-day.

COMMISSIONER TAYLOR: Very well.

(A recess was taken until 1400 hours.)

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The foregoing is a true and correct transcript of the examination of affidavits submitted by Dr. Merkel on 9 July 1946.

Alice Meehan
Reporter

Mabel A. Lesser
Reporter

CERTIFIED TO: George R. Taylor
Commissioner